

# News from Ed Markey

United States Congress

Massachusetts Seventh District

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June 11, 1998

The Honorable Arthur Levitt  
Chairman  
Securities and Exchange Commission  
450 5th Street, N.W.  
Washington, D.C. 20545

Dear Mr. Chairman:

This morning's paper reports on a disturbing new intrusion into the privacy of personal financial information (see Robert O'Harrow, Jr., "For Sale on the Web: Your Financial Secrets," Washington Post, June 11, 1998, at A1).

Specifically, the aforementioned article indicates that information about a consumer's bank accounts and investments is being made publicly available over the Internet by certain data broker firms. For a few hundred dollars, anyone reportedly can buy confidential financial information about another individual, including information about an individuals' stock purchases or investments in mutual funds.

These revelations only underscore my concerns about the nature and adequacy of current legal protections for the privacy of personal financial information. As you may recall, when the House recently took up of H.R. 10, the Financial Services Act, I attempted to offer an amendment which would have prevented financial services firms from transferring or selling personal financial information for cross-marketing purposes without the express prior affirmative consent of the consumer. Unfortunately, the Republican leadership blocked by amendment from being made in order under the Rule providing for House consideration of this bill.

In preparation for the debate on my amendment, I directed my staff to analyze the current legal protections against transfers of personal financial information, and I am enclosing, for your information, a copy of two recent statements I have made which summarize some of the applicable laws in this area. As you can see, the current legal protections are far from adequate in preserving the confidentiality of sensitive personal financial information. I therefore continue to believe that additional legislation is needed in this area in order to protect consumers from intrusions into the confidentiality of their personal financial information.

However, the revelations contained in the Post article raise other questions, which may be addressable by the Commission or the self-regulatory organizations. Specifically, do registered broker-dealers, investment advisors, and investment companies have any

obligation to safeguard the personal financial information of their clients? Are any broker-dealers, investment advisors, or investment companies utilizing the services of the data brokers referred to in the article to identify potential customers? Does the Commission or the self-regulatory organizations have the authority under the federal securities laws to address the privacy concerns raised by this article? I understand that the NASD issued a proposal relating to customer privacy matters in 1997 but has not yet acted on a final rule, reportedly due to intense opposition from the securities industry. What is the status of this Rule? Is the Commission at all concerned that the apparent failure of the SROs to assure adequate privacy protections will make it more likely that the U.S. will be unable to meet the European Community's standards for privacy protection, and if so, what would be the impact of such an action on securities transactions involving U.S. and European parties?

Thank you for your assistance and cooperation in responding to this inquiry. I request that a response be provided within 15 working days, or no later than close of business day, July 2, 1998.

Sincerely,

Edward J. Markey  
Member of Congress